

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

|                                    |   |                      |
|------------------------------------|---|----------------------|
| In the Matter of                   | ) |                      |
|                                    | ) |                      |
| Annual Assessment of the Status of | ) | MB Docket No. 06-189 |
| Competition in the Market for the  | ) |                      |
| Delivery of Video Programming      | ) |                      |

**REPLY COMMENTS OF  
Viodi, LLC**

**I. INTRODUCTION**

Viodi, LLC (Viodi) hereby submits these reply comments in the above-noted proceeding.<sup>1</sup> Viodi produces workshops and conferences, publishes a newsletter, the Viodi View, and provides consulting services to both independent telcos and their suppliers.

IPTV is the buzzword of 2006. The current video picture isn't really about IPTV, however; it is about competition. The major telcos are finally starting to give the cable companies notice that they are serious about entering the market for video services. Obviously, this has been brewing for a couple of years, starting with Verizon's announcement in January 2004 of their FIOS initiative (a hybrid RF/IP solution). In 2006, Verizon and AT&T, with its aggressive rollout of the U-verse IPTV product and the less

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<sup>1</sup> *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 06-189, Notice of Inquiry, FCC 06-154 (rel. Oct. 20, 2006) (NOD).

publicized HomeZone offering (a hybrid Satellite/IP solution), have proven that video is a key part of their long-term strategy.

Despite the early hype regarding potential features, the actual deployments have tended to be about providing products that are roughly equivalent, with some incremental improvements, as compared to the offerings of the cable and satellite competitors. A successful telco video offering begins with content. Christine Heckert, GM of Marketing for Microsoft TV suggested that, “The killer application for TV is TV.”<sup>2</sup> She suggested that content is the key to a service provider being able to provide a competitive offering.

These new competitors are going beyond the traditional concept of the typical franchised cable television approach. They are beginning to embrace elements of “over the top” video services. Verizon’s recent announcement of their partnership with YouTube is an example of how they are beginning to blend Internet-based content with their television and mobile distribution networks. Similarly, AT&T’s announcement of their relationships with companies such as Akimbo (for long-tail content) and MobiTV (for mobile and Internet delivered content), points to a future in which consumers can choose to view tens of thousands of channels from virtually any device.

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<sup>2</sup> From a speech at the December 5<sup>th</sup>, 2006 iHollywood Forum conference in Foster City, CA.

## **INDEPENDENT TELCOS' ROLLOUT SLOWED**

Unfortunately, the entry by these big operators may have slowed or, in some cases, stalled deployments by independent telephone companies<sup>3</sup>.

Many of these rural operators were the pioneers in building facilities-based triple play networks shortly after the Telecom deregulation act some ten years ago. These deployments started out as Hybrid Fiber Coax, evolved to ATM and then Internet Protocol. The independent telcos have always been pragmatic and still deploy whatever technology makes sense for their particular application.

With more than 100 deployments, the independent telcos were the earliest U.S. supporters of IPTV. These independent telcos have been generally successful at signing up customers with many achieving 40 to 50% market share of homes passed. By providing better service, customized packages and locally produced content, they are able to make television better for their customers. This is more than about television, as addition of a third-service helps pay for the broadband network and helps drive broadband penetration in rural locales.<sup>4</sup>

### **Technology Challenges Are Not Trivial**

There are several significant challenges for independent telcos. One of these challenges is integration of the various technology pieces. There is no

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<sup>3</sup> Viodi uses the term "independent telcos" to mean the rural telephone companies as defined in 47 U.S.C. §153(37).

<sup>4</sup> FCC Chairman Kevin Martin's 12/6/06 speech at the Phoenix Center, page 4, [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-268845A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-268845A1.pdf)

single entity that sets standards and interoperability, as there is in the cable industry with CableLabs. As a result, something simple, like a vendor's introduction of a new version of firmware or software can bring a working IPTV system to its knees.

The industry has also been waiting for the availability for MPEG-4 set-tops that support High Definition and Personal Video Recorders. These capabilities have been on vendors' roadmaps for years. In the past two years, many of the vendors have focused on the needs of the large carriers. As a result, AT&T, which jumped into the business well after many of the independent telcos, has been able to recently rollout High Definition television via MPEG-4, while the independent telcos continue to wait for vendors to provide production quantities of MPEG-4 set-tops.

Another area of uncertainty for the independent telco is the question of whether CableCard will be required for their legacy ATM deployments and newer IPTV deployments come July 1, 2007. For operators that deployed several years ago, they face the challenge of having product with no upgrade path to CableCard. The independent telcos do not have a group, like Cable Labs, that is negotiating with consumer electronic manufacturers to create televisions and other consumer electronic devices that integrate directly with IPTV networks.

## **CONTENT CHALLENGES ARE HUGE**

Content is another huge challenge for independent telcos. Being small entities, they have no leverage when dealing with the major cable television networks. One effective way operators used to have for acquiring relatively cost competitive content, the National Cable Television Cooperative, was closed to new members earlier this year. It is alleged that one of the reasons NCTC is prohibiting new members is due to the anti-trust concerns. There are also suggestions that one of the major telco carriers attempted to gain membership in NCTC, which was the real trigger point that caused NCTC to close membership.

There are many interesting nascent alternatives to NCTC, including offerings from Auroras Entertainment and NRTC, which promise independent telcos alternative ways to acquire content. Due to the aforementioned integration efforts and lack of MPEG-4 set-tops, these entities have not been able to commercially launch their service as of this writing.

Many of the programmers realize the significance of the switched nature of IPTV and it allows an operator to offer an unlimited number of channels. As a result, many of the programmers are trying to bundle as many channels in a so-called “basic tier” as possible. This is increasing the cost to the operator and causing the entry-level package of independent

telco's cable television offering to be expensive relative to the incumbent competition.

The smaller entities simply do not make money on video as a stand-alone service. The cost and the lack of control over the rise of programming costs was the number one complaint among the independent telcos in a joint December, 2006 OPASTCO/Viodi survey. While the large telcos have clout provided by large subscriber numbers and large geographic reach, independent telcos struggle to negotiate retransmission consent and other content deals. Sometimes, content is just not available to the small telco, as the major content providers focus their resources on the larger providers.

At least one independent telco reported that a cable operator-controlled regional sports network was willing to provide content, contingent on the independent telco's insertion of several hundred advertising spots per month for the cable operator's cable service. For an independent telco that could not afford ad insertion capability, this could be a particularly onerous provision.<sup>5</sup>

Many of the content challenges go unreported to the FCC and FTC due to the independent telcos' limited resources. This is evidenced by one operator which responded to the joint Viodi/OPASTCO survey as noted below [note, specifics have been left out to protect the privacy of the operator].<sup>6</sup>

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<sup>5</sup> An excellent summary of this challenge is provided by John Goodman, President of the Coalition for Competitive Access, [http://judiciary.senate.gov/testimony.cfm?id=2454&wit\\_id=5927](http://judiciary.senate.gov/testimony.cfm?id=2454&wit_id=5927)

<sup>6</sup> This survey was conducted in from November and December 2006 and sent to independent telcos.

“.....[sports network] is owned by one of our major competitors and they provide the service along with ..... Sports ..... for an extremely high price (approx. double what Time Warner is paying according to Multichannel News). In order to be competitive we have to carry this service..... The negotiation process to renew the contract for these channels is a simple "take it or leave it" and to date have not been successful in having the rate reduced even though they lost the [one of the sports teams] programming last year. We have considered filing a complaint with the FCC, but have refrained from doing so due to the legal expense.”

One area the independent telcos have found as an area where they can differentiate is through the production of local content. Viodi, through its workshops, surveys and market research on this subject, has identified at least 75 independent telcos that are involved in the production of local content. This number probably understates the actual number producing local content as a survey performed in January, 2006 by Viodi indicated that over half were already producing local video content. This content is important, as the number one motivation for telcos to produce local content was to help strengthen their communities.

#### **SUMMARY:**

So for many of the independent telcos, IPTV has been here for a few years. The challenge has for them has been to offer all of the features, such as H.D. and PVR, that their cable competitors offer. At the same time, the challenge of acquisition and cost of programming has made it virtually impossible for the independent telcos to make a profit with video. The major telcos, however, have been able to use their size to influence both technology

and programming suppliers to create products that are competitive with the incumbent cable operators, while providing a platform that will allow the development of new features.

Respectfully submitted,

**Viodi, LLC**

By: /k/ Ken Pyle  
Ken Pyle  
President

5255 Stevens Creek  
#127  
Santa Clara, CA 95051  
408 551-0320



CERTIFICATE OF SERVICE

I, Ken Pyle, hereby certify that a copy of the reply comments by the Viodi, LLC was sent by first class United States mail, postage prepaid, or via electronic mail, on this, the 27th day of December 2006, to those listed on the attached sheet.

By: /k/ Ken Pyle  
Ken Pyle

**SERVICE LIST**  
**MB Docket No. 06-189**

Via E-mail:

Best Copy and Printing, Inc.  
[fcc@bcpiweb.com](mailto:fcc@bcpiweb.com)

Timothy May, Media Bureau  
[Timothy.May@fcc.gov](mailto:Timothy.May@fcc.gov)

Marcia Glauberman, Media Bureau  
[Marcia.Glauberman@fcc.gov](mailto:Marcia.Glauberman@fcc.gov)

Anne Levine, Media Bureau  
[Anne.Levine@fcc.gov](mailto:Anne.Levine@fcc.gov)